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10/787,300	02/27/2004	Padakandla Krishna Rao	51085-3 /slb	8776
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SMART & BIGGAR			EXAMINER	
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OTTAWA, ON K1P5Y6			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/787,300	RAO ET AL.
Examiner	Art Unit	
Shantell Heiber	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 October 2007.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4, 6-14 and 16-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 6-14 and 16-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 2/27/04 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed on October 25, 2007 have been fully considered but they are not persuasive.
2. **Claims 1, 12 and 21-24**
3. According to applicant's specification, page 10, 1<sup>st</sup> paragraph recites: Although the TCRM is typically implemented for the purpose of indicating that the listener wishes to talk, the TCRM may also be used by a listener to simply request that the THD device release the talk/transmit channel.
4. Noel et al. discloses as a call progress, a call participant (first user device) uses an interrupt button to request the ability to speak (TCRM according to applicant's specification). Once the interrupt button is pressed, the PTT server (the TCRM is transmitted to a network) sends a message to the current speaker (second user device) that one of the call participants wants to interrupt the call on an urgent basis (i.e. the call participant requests the ability to speak, TCRM according to applicant's specification). After the message (TCRM) is received by the current speaker, the current speaker has the option of allowing the call participant initiating the request to speak or placing the call participant into the queue. See paragraphs [0023] and [0025].
5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the second user can decide whether to release the transmit channel) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Therefore, the examiner maintains the rejections as set forth below.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3 and 6-14 and 16-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Noel et al. (Noel), U.S. Publication No. 2005/0032539.

**Regarding Claims 1, 12 and 21-24**, Noel discloses a method, a user device, a network, a system and a memory of messaging during an active half-duplex session between a plurality of user devices capable of half-duplex voice functionality (**PTT calls use a half-duplex communications system and therefore, only one person can have the ability to speak at a time; [0004]**), the method, the user device, the network, a system and a memory comprising: a first user device (**requestor of mobile device**) of said plurality of user devices (**participants of mobile devices**) while in a receiving in half-duplex (RHD) mode for an active half-duplex session (**the call begins**

**when the call originator presses the appropriate button, e.g., a PTT button, on a wireless phone and begins speaking), transmitting a transmit channel request message (TCRM) to a network (130) (as the call progresses, a participant may want to speak while another participant is currently speaking. The participant wanting to speak sends a request (TCRM) to speak); the network (130) forwarding the TCRM (if the call participant initiating the request has a higher priority level than that of the current speaker, a message is sent to each mobile device) to a second user device (current speaker of mobile device) of said plurality of user devices (participants of mobile devices) while the second user device is in a transmitting in half-duplex (THD) mode for the active half-duplex session, the TCRM including an identification of the first user device (the current speaker ability to speak is terminated); and the second user device (current speaker of mobile device) receiving the TCRM (if the call participant initiating the request has a higher priority level than that of the current speaker, a message is sent to each mobile device). See paragraphs [0019]-[0022].**

**Regarding Claims 2 and 13, Noel discloses wherein each user device of the plurality of user devices is a wireless device (the mobile device 110 is shown in Figure 1 as a wireless phone; [0019]).**

**Regarding Claims 3 and 12, Noel discloses further comprising the first user device locally receiving a request to transmit the TCRM (the participant wanting to speak sends a request to speak by making the proper selection. This typically accomplished using the push to talk button on mobile device; [0022]).**

**Regarding Claim 16**, Noel discloses wherein the outgoing TCRM comprises an identification of the user device. **(after the participants for the call, call group, are selected, their identities and priority level are transmitted to the PTT server 140 for storage. This information is compared and used by the PTT server for determining if the requestor can be granted the ability to speak; [0021] and [0022]).**

**Regarding Claims 6 and 12**, Noel discloses further comprising: the second user device in response to receiving the TCRM generating a user-detectable notification indicating the second user device has received the TCRM **(when the change of speaker message is sent, the current speaker loses the ability to transmit her speech; [0022]).**

**Regarding Claim 7**, Noel discloses further comprising: the second user device generating user-detectable notification indicative of the identification of the first user device **(see rejections for claim 6).**

**Regarding Claim 8**, Noel discloses further comprising: the network, upon receiving the TCRM from the first user device, determining a talk group the first user device is participating in, determining another user device in the talk group that is in THD mode, which another user device is said second user device **(see rejection for claim 1).**

**Regarding Claims 9, 17 and 19**, Noel discloses further comprising including a qualifier flag **(priority level)** in the TCRM at least when the TCRM is forwarded to the second user device **[0021] and [0022].**

**Regarding Claims 10, 17 and 19,** Noel discloses further comprising performing extended functionality in response to a value of the qualifier flag (if the priority level is a higher priority than that of the current speaker then a message is sent to each mobile device indicating a change in speaker is set to occur. The requestor is granted the ability to speak; [0022]).

**Regarding Claims 11, 18 and 20,** Noel discloses wherein the extended functionality comprises at least one functionality selected from the group consisting of: a) registering a continuing transmit channel request at the THD device; b) canceling a transmit channel request at the THD device; and c) performing automatic release of the transmit channel by the THD device (if the priority level is a higher priority than that of the current speaker then a message is sent to each mobile device indicating a change is speaker is set to occur. The requestor is granted the ability to speak; [0022]).

**Regarding Claim 14,** Noel discloses wherein the active half-duplex session is a push-to-talk.TM (the mobile device has a push to talk button) half-duplex voice communication session [0004] and [0022].

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noel in view of Stubbs, U.S. Patent No. 6,930,994.

**Regarding Claim 4**, Noel discloses wherein the half-duplex session is a voice communication session as described above.

Noel fails to specifically disclose wherein the half-duplex session is a voice communication session compliant with at least one system selected from the group of iDEN.TM., 1XRTT CDMA, GSM/GPRS, UMTS, and TDMA.

In a similar field of endeavor, Stubbs discloses a dynamic allocation of radio resources in a packet switched communications system. Stubbs further discloses wherein the half-duplex session is a voice communication session compliant with at least one system selected from the group of iDEN.TM., 1XRTT CDMA, GSM/GPRS, UMTS, and TDMA (**Abstract**).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide a half-duplex video conferencing call between two parties or in a dispatch mode between groups of call participants wherein operable in both a GPRS virtual connection mode and a conventional circuit-switched mode (Stubbs-Col. 12, lines 20-23 and lines 32-38) for further allowing efficient and organized queuing of call participants (Noel).

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Metais et al., U.S. Patent No. 7,136,663 discloses a method for controlling a communications channel shared by several stations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shantell Heiber whose telephone number is 571-272-0886. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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SLH *SLH*  
January 6, 2008

*Lester G. Kincaid*  
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SUPERVISORY PRIMARY EXAMINER